

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to waivers and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 11, “Waiver of Rules,” and Chapter 112, “Primary Road Access Control,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 307.12 and Executive Order 11 dated September 14, 1999.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.9A as amended by 2020 Iowa Acts, House File 2389, section 10.

Purpose and Summary

The proposed amendments update Chapters 11 and 112 to remove the word “variance” when used with the word “waiver” in accordance with the same change included in 2020 Iowa Acts, House File 2389, section 10.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on October 13, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on October 15, 2020, via conference call from 9 to 10 a.m. Persons who wish to participate in the conference call should contact

Tracy George before 4:30 p.m. on October 13, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 11.1(1) as follows:

11.1(1) The purpose of this chapter is to establish a general process for granting waivers ~~or variances~~ (hereinafter referred to as waivers) from the requirements of department rules. A waiver is an agency action which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

ITEM 2. Amend paragraph **112.12(2)“c”** as follows:

c. A predetermined access location that does not meet required spacing standards is not a waiver ~~or variance~~ of these rules if justification for the access location is based on one or more of the considerations listed in paragraph “a” of this subrule. The final access review letter must include this justification.